

Exhibit 81

1 J. MARK HOLLAND (140453)
2 **J. MARK HOLLAND & ASSOCIATES**
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5
6 Attorneys for Defendant and Counterclaim Plaintiff
KEATING DENTAL ARTS, INC.

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 SOUTHERN DIVISION

11) JAMES R. GLIDEWELL DENTAL
12 CERAMICS, INC., DBA)
GLIDEWELL LABORATORIES,
13 a California corporation,

14 Plaintiff,

15 vs.

16 KEATING DENTAL ARTS, INC.,
a California corporation,

17 Defendants.

18 KEATING DENTAL ARTS, INC.
19 a California corporation,

20 Counterclaim-Plaintiff,

21 vs.

22 JAMES R. GLIDEWELL DENTAL
CERAMICS, INC., DBA
GLIDEWELL LABORATORIES,
23 a California corporation, and
24 DOES 1 THROUGH 5, inclusive,

25 Counterclaim-Defendants.)

Civil Action No.
SA-CV-11-01309-DOC(ANx)

DEFENDANT/
COUNTERCLAIM PLAINTIFF'S
RESPONSE TO PLAINTIFF/
COUNTERCLAIM
DEFENDANT'S FIRST SET OF
INTERROGATORIES NOS. 1-25

1 PROPOUNDING PARTY: GLIDEWELL DENTAL CERAMICS, INC
2 RESPONDING PARTY: KEATING DENTAL ARTS, INC
3 SET NUMBER: ONE
4 TO ALL INTERESTED PARTIES AND TO THEIR ATTORNEYS OF
5 RECORD:

6 Pursuant to Federal Rules of Civil Procedure, Rule 33; Defendant,
7 KEATING DENTAL ARTS, INC. (Defendant) hereby responds to the above
8 referenced Interrogatories as follows:

9

10 **GENERAL OBJECTIONS AND REMARKS**

11 The following apply to these responses, and **all responses below are subject to**
12 **these objections and remarks:**

13 1. Discovery and investigation are continuing, and Defendant reserves
14 the right to supplement this response at a later time.

15 2. Defendant and its attorneys have not completed their discovery or
16 preparation for trial, nor have they concluded their analysis of information
17 gathered to date. Consequently, Defendant's responses and objections to this
18 discovery request are based upon information which is presently available to it and
19 its attorneys. Defendant makes these responses and objections to this discovery
20 request without prejudice to its rights to (a) identify and produce evidence of any
21 and all subsequently discovered facts, (b) to modify these responses at a later date
22 that is consistent with the Federal Rules of Civil Procedure, the local rules of this
23 district, and any Scheduling Order entered by this Court, and (c) raise additional
24 objections as Defendant may become aware of same and as may be permitted by
25 relevant law and rules.

26 3. Defendant objects to these interrogatories, and to each and every
27 interrogatory, to the extent that it calls for the production/disclosure of

1 confidential documents/information involving trade secrets or other proprietary or
2 confidential information.

3 4. Defendant objects to these interrogatories, and to each and every
4 interrogatory, to the extent that it is not reasonably limited in scope or in time.

5 5. Defendant objects to these interrogatories, and to each and every
6 interrogatory, to the extent that it is not reasonably particular from the standpoint
7 of the responding party, and/or not bearing a sufficient relationship to the manner
8 in which records are kept, thereby requiring responding party to determine, at the
9 risk of sanctions, which of its records fit a demand that requests everything fitting
10 a specific topic or broad description.

11 6. Defendant objects to these interrogatories, and to each and every
12 interrogatory, to the extent that the request is oppressive and burdensome because
13 it is vague, ambiguous, and/or unintelligible so as to make a response impossible
14 without speculation as to the meaning of the interrogatory.

15 7. Defendant objects to these interrogatories, and to each and every
16 interrogatory, to the extent that it is unduly broad, unduly burdensome, and
17 oppressive insofar as it calls for "all" and/or "each" and/or "every" possible matter
18 and/or related piece of evidence or information, when a more limited request is all
19 that might be relevant to the subject matter of the within litigation.

20 8. Defendant objects to these interrogatories, and to each and every
21 interrogatory, to the extent that they are unduly burdensome in view of (a) their
22 likely benefit, (b) the needs of the case, (c) the amount in controversy, (d) the
23 parties' resources, and/or (e) the importance of the issues at stake.

24 9. Defendant objects to these interrogatories, and to each and every
25 interrogatory, to the extent that it violates the attorney-client and attorney work
26 product privileges (and/or any other relevant privilege) and therefore is protected
27 from disclosure.

1 10. Defendant objects to these interrogatories, and to each and every
2 interrogatory, to the extent that collectively they exceed the discovery limits that
3 may be applicable under relevant law and/or rule.

4 11. Defendant objects to these interrogatories, and to each and every
5 interrogatory, to the extent that they request information that is irrelevant and/or is
6 not reasonably calculated to lead to the discovery of admissible evidence.

7 12. Defendant objects to these interrogatories, and to each and every
8 interrogatory, to the extent that they seek information that is unreasonably
9 cumulative or duplicative or obtainable from some other source that is more
10 convenient, less burdensome, or less expensive.

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2 **RESPONSES TO PLAINTIFF'S INTERROGATORIES, SET ONE**
3

4 **INTERROGATORY NO. 1**

5 Please provide contact information including name, title, last known address
6 and telephone number ("CONTACT INFORMATION") for all persons, who the
7 DEFENDANT believes to be knowledgeable of any fact(s) relevant to this Action,
8 including, without limitation, all former employees, current employees, officers,
9 directors, agents, attorneys, licensees, licensors, shareholders, customers,
10 consultants ("PERSONS") of the DEFENDANT, including its predecessors,
11 successors, or entities which are or have been under common ownership or control
12 in any manner with the DEFENDANT, entities that have granted or assigned
13 rights to the DEFENDANT for the designation KDZ BRUXER, and third parties.

14 **RESPONSE:**

15 The contact information relevant to the persons listed below, and applicable
16 to this response and all following responses in which one or more of these persons
17 is listed, is as follows:

19 Address	KEATING DENTAL ARTS, INC.
20	16881 Hale Ave.
21	Irvine, CA, 92606
22 Phone	(949) 955-2100

23 Shaun Keating, President and CEO

24 Diane Mallos, CFO

25 Patrick Ramsey, Director of Operations

26 Jim McEachern, Laboratory Manager

27 Bob Brandon, General Manager

1 INTERROGATORY NO. 2

2 Please provide CONTACT INFORMATION for the PERSONS most
3 knowledgeable about the goods of the DEFENDANT recited in U.S. Application
4 Serial No. 85/287,029.

5 RESPONSE:

6 Shaun Keating

7

8 INTERROGATORY NO. 3

9 Please provide CONTACT INFORMATION for the PERSONS most
10 knowledgeable about the controls, if any, which are placed over the quality of
11 goods that have been offered for sale by the DEFENDANT under the designation
12 KDZ BRUXER.

13 RESPONSE:

14 Bob Brandon, Jim McEachern, Linda Morgan

15

16 INTERROGATORY NO. 4

17 Please provide CONTACT INFORMATION for the PERSONS most
18 knowledgeable about the DEFENDANT'S advertising and promotional activities
19 under the designation KDZ BRUXER.

20 RESPONSE:

21 Shaun Keating, Pete Murphy

22

23 INTERROGATORY NO. 5

24 Please provide CONTACT INFORMATION for the PERSONS most
25 knowledgeable about the intentions of the DEFENDANT for use of the
26 designation KDZ BRUXER.

27 RESPONSE:

28 Shaun Keating

1
2 INTERROGATORY NO. 6

3 Please identify all products and services that have ever been offered for sale
4 by the DEFENDANT under the designation KDZ BRUXER.

5 RESPONSE:

6 Full contour zirconia-based restorations.
7

8 INTERROGATORY NO. 7

9 Please describe in detail the first instance when the DEFENDANT became
10 aware of the use of the designation BRUXZIR by PLAINTIFF.

11 RESPONSE:

12 After a reasonable effort and review of information reasonably available to
13 Defendant, Defendant is not certain as to as to when the "first instance" occurred,
14 nor the requested "detail" regarding the exact instance or date.
15

16 INTERROGATORY NO. 8

17 Please identify all uses ever made by any party of the designation BRUXER
18 known to the DEFENDANT.

19 RESPONSE:

- 20 a) all of the examples of uses that are listed in the materials Defendant filed in
21 connection with its recent Motion for Partial Summary Judgment, including
22 uses by Plaintiff
- 23 b) doctors use "bruxer" in telephone conversations
- 24 c) doctors write the word "bruxer" on prescriptions
- 25 d) dental marketing materials and dental office pamphlets (particularly
26 pamphlets on TMJ and occlusal wear) use the term "bruxer"
- 27 e) dental textbooks use "bruxer"
- 28 f) dental journals use "bruxer"

- 1 g) use in the public domain (written and spoken language)
2 h) companies and products and businesses that use “bruxer” can be located on
3 the Internet, for example, by searching “bruxer” in a search engine. That
4 search on Google returned about 36,000 results, including those shown
5 here:
6
-
- 7

8 About 36,000 results (0.11 seconds)

9 Search Results

10 **World Wide Words: Bruxer**

11 www.worldwidewords.org/weirdwords/ww-bru1.htm

12 Jun 26, 1999 – A bruxer habitually and involuntarily grinds their teeth. You may
13 be one of these, since it's been estimated that about one in four people do so.

14 **Bruxism - Wikipedia, the free encyclopedia**

15 en.wikipedia.org/wiki/Bruxism

16 Most (but not all) bruxism includes clenching force provided by masseter and
17 temporalis muscle groups, but some bruxers clench and grind front teeth only, ...
Causes - Signs - Symptoms - Sequelae

18 **Are you a Bruxer? | Philadelphia Independent Media Center**

19 www.phillyimc.org/en/are-you-bruxer

20 Sep 21, 2009 – Research papers from recent studies on Bruxism have shown that
the number of people who are unaware that they are bruxers are steadily ...

21 **Transparent Zirconia-Bruxer Esthetic**

22 dentallabnetwork.com/.../transparent-zirconia-bruxer-esthetic-6958/

23 Feb 15, 2011 – Transparent Zirconia-Bruxer Esthetic. I know, I know...you guys
will mix up your own formula using a Crystal zirconia block and some old emax ...
24 Emax press for Patient who is a ru xer - Oct 7, 2011

25 Finishing ir. ru xer crs - Sep 1, 2011

26 More results from dentallabnetwork.com »

1
2 INTERROGATORY NO. 9

3 Please provide CONTACT INFORMATION for the providers, including
4 agents, of all goods ever offered for sale by the DEFENDANT under the
5 designation KDZ BRUXER.

6 RESPONSE:

7 In addition to the General Objections set forth above, Defendant objects to
8 this interrogatory to the extent that it is vague and ambiguous as to the meaning of
9 “providers, including agents.” Without waiving that or any other objection,
10 Defendant responds as follows:

11 Keating Dental Arts is the sole provider.

12
13 INTERROGATORY NO.10

14 Please provide CONTACT INFORMATION for all third parties with whom
15 the DEFENDANT has entered into an arrangement to advertise and promote
16 products and services under the designation KDZ BRUXER.

17 RESPONSE:

18 Please see Exhibit 10 served herewith in a separate document, which
19 Defendant has designated as “Attorney’s Eyes Only” pursuant to the
20 Confidentiality Order entered in this lawsuit.

21
22 INTERROGATORY NO. 11

23 Please provide CONTACT INFORMATION for all third party uses known
24 to the DEFENDANT of any name believed by the DEFENDANT to be
25 confusingly similar to KDZ BRUXER.

26 RESPONSE:

27 In addition to the General Objections set forth above, Defendant objects to
28 this interrogatory to the extent that it calls for a legal conclusion (as to

1 "confusingly similar"). Without waiving that or any other objection, Defendant
2 responds as follows:

3 As presently advised, Defendant is not aware of any such third party uses.
4

5 INTERROGATORY NO. 12

6 Please describe in detail the circumstances of any instance known by the
7 DEFENDANT of actual confusion arising in connection with the use of the
8 designation KDZ BRUXER.

9 RESPONSE:

10 As presently advised, Defendant is not aware of any such instances.
11

12 INTERROGATORY NO. 13

13 Please describe all proposed future uses of the designation KDZ BRUXER
14 by the DEFENDANT.

15 RESPONSE:

16 KD rux er is a single product within Defendant's KD family of
17 products. Defendant uses that trademark for full contour zirconia indicated for
18 bruxer patients. Presently, Defendant has no future uses planned, beyond
19 continuing that present use.

20
21 INTERROGATORY NO. 14

22 On an annual basis, since the date of the alleged first use of the designation
23 KDZ BRUXER by the DEFENDANT, please state the dollar volume of all sales
24 by the DEFENDANT under the designation KDZ BRUXER.

25 RESPONSE:

26 Please see Exhibit 14 served herewith in a separate document, which
27 Defendant has designated as "Attorney's Eyes Only" pursuant to the
28 Confidentiality Order entered in this lawsuit.

1
2 INTERROGATORY NO. 15

3 On an annual basis, since the date of the alleged first use of the designation
4 KDZ BRUXER by the DEFENDANT, please state the dollar volume of all
5 expenditures by the DEFENDANT to advertise and promote its goods under the
6 designation KDZ BRUXER.

7 RESPONSE:

8 Please see Exhibit 15 served herewith in a separate document, which
9 Defendant has designated as "Attorney's Eyes Only" pursuant to the
10 Confidentiality Order entered in this lawsuit.

11
12 INTERROGATORY NO. 16

13 Please provide CONTACT INFORMATION for the PERSONS most
14 knowledgeable about the DEFENDANT'S selection and adoption of the
15 designation KDZ BRUXER.

16 RESPONSE:

17 In addition to the General Objections set forth above, Defendant objects to
18 this interrogatory to the extent that it calls for information that is attorney-client
19 and/or work product privileged. Without waiving that or any other objection,
20 Defendant responds as follows:

21 Shaun Keating, in consultation with Defendant's attorney Thomas Gourde.

22
23 INTERROGATORY NO. 17

24 Please provide CONTACT INFORMATION for the PERSONS most
25 knowledgeable about the information contained in the records of the
26 DEFENDANT of sales under the designation KDZ BRUXER.

27 RESPONSE:

28 Shaun Keating, Diane Mallos

1
2 INTERROGATORY NO. 18

3 Please provide CONTACT INFORMATION for the PERSONS most
4 knowledgeable about the records of the DEFENDANT of expenditures to
5 advertise and promote under the designation KDZ BRUXER.

6 RESPONSE:

7 Shaun Keating, Diane Mallos

8
9 INTERROGATORY NO. 19

10 Please identify all investigations that have been conducted, including
11 without limitations, marketing studies, focus group studies, polls, surveys, etc.,
12 which relate to any and all facts involved in DEFENDANT'S adoption of the
13 designation KDZ BRUXER

14 RESPONSE:

15 In addition to the General Objections set forth above, Defendant objects to
16 this interrogatory to the extent that it calls for information that is attorney-client
17 and/or work product privileged. Without waiving that or any other objection,
18 Defendant responds as follows:

- 19 (a) informal trademark search for "KD " and "bruxer"
20 (b) opinion of other attorneys, including other trademark attorneys
21 (c) informal survey of current Keating clients in March/April 2011 (mainly those
22 asking for "bruxer crowns" from us at that time)
23 (d) extensive review of dental journals advertisements by other dental labs

24
25 INTERROGATORY NO. 20

26 Please describe any and all trademark searches performed by the
27 DEFENDANT prior to its adoption and use of the designation KDZ BRUXER.
28

1 RESPONSE:

2 In addition to the General Objections set forth above, Defendant objects to
3 this interrogatory to the extent that it calls for information that is attorney-client
4 and/or work product privileged. Without waiving that or any other objection,
5 Defendant responds as follows:

6 (a) Bruxer

7 (b) KDZ

8

9 INTERROGATORY NO. 21

10 Please describe the manner in which the designation KDZ BRUXER is used
11 on or in connection with the GOODS sold by the DEFENDANT.

12 RESPONSE:

13 Defendant uses the designation KDZ Bruxer on or in connection with the
14 GOODS in the following manners: on Defendant's website, on promotional
15 materials relating to the GOODS, on order forms provided to Defendant's
16 customers, and on invoices shipped with the KDZ Bruxer products.

17

18 INTERROGATORY NO. 22

19 Please describe any and all prior relationships that existed between any
20 officers of DEFENDANT Keating and PLAINTIFF Glidewell.

21 RESPONSE:

22 Shaun Keating was employed by Glidewell Dental Ceramics from 1984 to
23 2002.

24

25 INTERROGATORY NO. 23

26 Please describe any and all relationships that have existed between any
27 employees of DEFENDANT Keating and PLAINTIFF Glidewell.

1 RESPONSE:

2 In addition to the general objections set forth above, Defendant specifically
3 objects to this Interrogatory:

- 4 • as not being reasonably calculated to lead to the discovery of admissible
5 evidence
6 • as being vague and ambiguous
7 • as calling for information that may violate rights of privacy of the relevant
8 employees
9 • as requiring Defendant to violate any corresponding duty that Defendant
10 may have to such employees
11 • to the extent that it is unduly burdensome in view of (a) the likely benefit of
12 the information, (b) the needs of the case, (c) the amount in controversy, (d)
13 the parties' resources, and/or (e) the importance of the issues at stake.

14

15 INTERROGATORY NO. 24

16 Please identify all current employees of DEFENDANT Keating who were
17 previously an employee of PLAINTIFF Glidewell.

18 RESPONSE:

19 In addition to the general objections set forth above, Defendant specifically
20 objects to this Interrogatory:

- 21 • as not being reasonably calculated to lead to the discovery of admissible
22 evidence
23 • as calling for information that may violate rights of privacy of the relevant
24 employees
25 • as requiring Defendant to violate any corresponding duty that Defendant
26 may have to such employees

- 1 • to the extent that it is unduly burdensome in view of (a) the likely benefit of
2 the information, (b) the needs of the case, (c) the amount in controversy, (d)
3 the parties' resources, and/or (e) the importance of the issues at stake.
- 4

5 INTERROGATORY NO. 25

6 Please identify all current distributors of the GOODS of DEFENDANT
7 Keating.

8 RESPONSE:

9 In addition to the General Objections set forth above, Defendant objects to
10 this interrogatory to the extent that it is vague and ambiguous as to the meaning of
11 “distributors.” Without waiving that or any other objection, Defendant responds
12 as follows:

13 Keating Dental Arts is the sole distributor.

14

15

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18 Dated: 2012-04-19

/J. Mark Holland/
J. Mark Holland
J. MARK HOLLAND & ASSOCIATES
Attorney for Defendant and Counterclaim
KEATING DENTAL ARTS, INC., a
California corporation

1

VERIFICATION

3 I, the undersigned, say:

I have read the foregoing document described as DEFENDANT/COUNTERCLAIM PLAINTIFF'S RESPONSE TO PLAINTIFF/COUNTERCLAIM DEFENDANT'S FIRST SET OF INTERROGATORIES NOS. 1-25 and know its contents.

7

[CHECK APPLICABLE PARAGRAPH:]

[] I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

[X] I am an agent/officer/partner of the responding party herein, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

[] I am one of the attorneys for the responding party herein. Such party is absent from the aforesaid county where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing documents are true.

18 I declare under penalty of perjury under the laws of the United States and
the State of California that the foregoing is true and correct.

19 Executed on April 19, 2012, at Irvine, California.

20 / Bob Brandon /

21 Bob Brandon - Declarant

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**DEFENDANT/ COUNTERCLAIM PLAINTIFF'S RESPONSE TO PLAINTIFF/ COUNTERCLAIM
DEFENDANT'S FIRST SET OF INTERROGATORIES NOS. 1-25**

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 3 San Joaquin Plaza, Suite 210, Newport Beach, California 92660.

On the date indicated below, I served the following documents (described as DEFENDANT/ COUNTERCLAIM PLAINTIFF'S RESPONSE TO PLAINTIFF/ COUNTERCLAIM DEFENDANT'S FIRST SET OF INTERROGATORIES NOS. 1-25) on all other parties and/or their attorney(s) of record to this action, as listed here:

Attorneys for Plaintiff JAMES R. GLIDEWELL DENTAL CERAMICS, INC., DBA
GLIDEWELL LABORATORIES:

I accomplished this service as indicated below:

[] (BY MAIL) I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. By placing a true copy thereof in a sealed envelope, addressed to the person at the address set forth above by postage prepaid United States First Class mail, which envelope shall be deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in Newport Beach, California.

[] (BY OVERNIGHT DELIVERY SERVICE) I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, and I paid or provided for payment of the fees for overnight delivery.

[] (BY FACSIMILE) I caused such documents to be delivered via facsimile to the offices of the addressee(s) at the indicated fax numbers.

[X] (BY EMAIL) I caused such documents to be delivered via email to the offices of the addressee(s) at the indicated email addresses.

[] (BY PERSONAL SERVICE) I caused such document(s) to be delivered by hand to the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 19, 2012, at Newport Beach, California.

/ Kristin Brown /

Kristin Brown

EXHIBIT 82

[FILED UNDER SEAL]

EXHIBIT 83

[FILED UNDER SEAL]

EXHIBIT 84

[FILED UNDER SEAL]

EXHIBIT 85

[FILED UNDER SEAL]

EXHIBIT 86

[FILED UNDER SEAL]

EXHIBIT 87

[FILED UNDER SEAL]

EXHIBIT 88

1 Lynda J. Zadra-Symes (SBN 156,511)
2 Lynda.Zadra-Symes@kmob.com
3 Jeffrey L. Van Hoosear(SBN : 147,751)
4 Jeffrey.VanHoosear@kmob.com
5 David G. Jankowski (SBN 205,634)
6 David.iankowski@kmob.com
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2040 Main Street, Fourteenth Floor
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Phone: (949) 760-0404
Facsimile: (949) 760-9502

7 Attorneys for Defendant/Counter-Plaintiff,
Keating Dental Arts, Inc.

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 JAMES R. GLIDEWELL DENTAL } Civil Action No.
14 CERAMICS, INC. dba } SACV11-01309-DOC(ANx)
15 GLIDEWELL LABORATORIES, }
16 KEATING DENTAL ARTS, INC.'S
17 Plaintiff/Counter-defendant, } THIRD AMENDED INITIAL
18 v. } DISCLOSURES PURSUANT TO
19 KEATING DENTAL ARTS, INC. } FEDERAL RULE OF CIVIL
20 } PROCEDURE 26(a)(1)
21 }
22 Honorable David O. Carter
23 }
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1 Pursuant to Federal Rule of Civil Procedure 26(a)(1), without waiving
2 any claim of privilege, work produced or other basis for non-disclosure,
3 Defendant Keating Dental Arts, Inc. ("Keating"), hereby provides its Third
4 Amended Initial Disclosures.

5 (i) The name and, if known, the address and telephone number of each
6 individual likely to have discoverable information - along with the subjects of
7 that information - that the disclosing party may use to support its claims or
8 defenses, unless the use would be solely for impeachment; information:

10	Witness Email Address	Address/Website/Telephone	Subject of the Likely 11 Discoverable Information
12	Shaun Keating	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
13	Bob Brandon	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
14	Daxton Grubb daxton@rdentlab.com	R-Dent Dental Laboratories 6590 Summer Knoll Cove Bartlett, TN 38134 www.rdentlab.com 372-8020	Glidewell demands to stop using R BRUX Trademark, and related facts
15	Robert P. Marbach sevices@authenticlab.com	Authentic Dental Lab 1950 Bandera Rd. San Antonio, TX 78228 www.authenticlab.com 735-1433	Glidewell demands to stop using "BRUX" crowns on Authentic's website, and related facts
16	Rick Everson reverson@dentalservices.net	Sentage Corporation 5775 Wayzata Blvd. Suite 890 Minneapolis, MN 55416 www.dentalservices.net 345-6300	BRUX-EZE Trademark and related facts
17	Robin A. Carden	Glidewell Laboratories 4141 MacArthur Blvd Newport Beach, CA 92660 (800) 854-7256	Use of "bruxer" and "zirconia" as generic terms.

1	Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
2	Dr. William Belton	403 Vonderburg Dr. Suite 201 Brandon, FL 33511 (813) 689-5098	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
3	Dr. David Bonner	101 Binkley PO Box 592 Dumas, TX 79029 (806) 935-6811	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
4	Dr. Jonathan Campbell	Legacy Dental 1345 E. 3900 South Suite 116 Salt Lake City, UT 84124 (801) 278-4223	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
5	Dr. Joseph Jacquinot	Platteville Dental 1270 N. Water St. Platteville, WI 53818 (608) 348-2393	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
6	Dr. Dennis Murphy	310 Terrace Ave. Suite #102 Cincinnati, OH 45220 (513) 221-1550	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
7	Dr. Terry L. Myers	109 Apple Valley Parkway Belton, MO 64012 (816) 331-4200	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

1	Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
2	Dr. Samir Rana	60 Beaverbrook Rd. Lincoln Park, NJ 07035 (973) 633-5666	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
3	Dr. Michael Razzano	12910 Hwy 92 #107 Woodstock, GA 30188 (770) 592-2600	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
4	Dr. Stan Richardson	780 Nissan Dr. Smyrna, TN 37167 (615) 355-1062	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
5	Dr. Trevor Scheff	6300 Limestone Rd. Suite D Hockessin, DE 19707 (302) 239-7277	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
6	Dr. Scott Stephens	2538 E Joyce Blvd. Fayetteville, AR 72703 (479) 442-3915	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
7	Dr. Robert T. Wooton	3000 N Interstate 35 Austin, TX 78705 (512) 472-2246	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

1	Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
2	Dr. Tony D. Wu	155 E. 38th Suite 2D New York, NY 10016 (212) 682-0888	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
3	Dr. Gary P. Tobin	16055 Ventura Blvd Suite 1035 Encino, CA 91436 (818) 990-5240	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
4	Dr. Jenny Harris	2504 Lake Austin Blvd Austin, TX 78703 (512) 474-5233	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
5	Dr. Joseph Ting	3461 US Highway 22 East Branchburg, NJ 08876 (908) 203-1998	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
6	Dr. Raymond Brady	2700 Bellflower Blvd. Suite 306 Long Beach, CA 90815 (562) 420-1301	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
7	Dr. Michael Colleran	1250 Peach Street San Luis Obispo, CA 93401 (805) 543-0814	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Dr. Richard Scott	215 N. State College Blvd. Suite E Anaheim, CA 92806 (714) 635-0892	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.	
Dr. Daniel Sweet	1990 Shaw Avenue Suite C Clovis, CA 93611 (559) 298-2575	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.	
Dr. George Tashiro	558 E. Wardlow Rd. Long Beach, CA 90807 (562) 427-1221	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.	
Dr. Thomas Nussear	40 S. Main St. Smithsburg, MD 21783 (301) 824-2080	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.	
Carol Frattura	22286 Vick Street Port Charlotte, FL 33980 (888) 625-5757	GlideWell demands to stop using Zir-Bruxer Crown mark and related facts. Use of "bruxer" and similar words by dentists when ordering all zirconia crowns.	
Dr. David Eggleston	1441 Avocado Ave Suite 508 Newport Beach, CA 92660 (949) 640-5680	Expert testimony regarding use of term "bruxer" and related terms in the dental industry.	

1 2 3 4 5 6 7 8 9 10	Witness Email Address Lori Boatright	Address/Website/Telephone Blakely Sokoloff Taylor Zafman LLP 12400 Wilshire Blvd. Seventh Floor Los Angeles, CA 90025 (310) 207-3800	Subject of the Likely Discoverable Information Expert testimony regarding USPTO rules and procedures; the USPTO's examination of the mark BRUXZIR; the validity of the mark BRUXZIR; other rebuttals to the opinions of Prof. Franklyn.
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Scott Hudson	Old Dominion Milling Corp. 5700 Old Richmond Ave. Suite G-20 Richmond, VA 23226 (804) 285-0777	Glidewell's enforcement efforts associated with the mark BRUXZIR; language used by the dental industry.

(ii) A copy - or a description by category and location - of all documents, electronically stored information ("ESI"), and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment:

Disclosure: Pursuant to appropriate terms of the Confidentiality Order, Keating will make available for inspection and copying responsive documents, ESI, and tangible things as indicated below. Defendant notes that Defendant already has identified to Plaintiff at least certain of the items listed. Also subject to an appropriate Protective Order and further review, Defendants may produce or make available under Federal Rule of Civil Procedure 34 additional documents/evidence, as those may come to the attention of Defendant.

Description, etc.
The trademarks and related information disclosed in the attachment to an email dated November 16, 2011 to Plaintiff's counsel Mr. Tachner, from Defendant's counsel.
Correspondence from Glidewell to third parties regarding the use by those third parties of the term BRUX or BRUX-related words.
Defendant's order forms and related records, as provided to and as received from dentists.

Description, etc.
Defendant's sales records relating the products sold under Defendant's trademark KDZ BRUXER AND DESIGN.
Scholarly articles using the terms "zirconia" or "bruxer", "brux", "bruxism", or other related terms with a root of "brux."
Patents and patent applications using the terms "zirconia" or "bruxer", "brux", "bruxism", or other terms with a root of "brux."
Advertisements from Glidewell Laboratories showing use of "bruzzir" to indicate the product itself and not as a brand name. Copies of material from Glidewell's websites www.glidewelldental.com, www.bruzzir.com as well as other advertisements by Glidewell.
Advertisements by third parties showing the offering for sale, and sale, of commercially available products for the dental industry using brand names that include "Brux," "Zir," or variations thereon.
Advertisements by dental laboratories, including dental laboratories that do business with Glidewell Laboratories, showing the offering for sale, and sale, of full contour zirconia crowns that do not originate from Glidewell.
Defendant's and third party advertisements that show use of the term "bruxer," "brux," or other related words to refer generically to a bruxer crown product.

(iii) A computation of each category of damages claimed by the disclosing party ~ who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

Disclosure: Defendant and Counterclaim-Plaintiff has not calculated its damages at this time, and is not in possession of the information necessary to do so. Among other things, Defendant and Counter-Defendant anticipates (1) possibly hiring an expert to do so, and (2) forwarding that expert's report in compliance with all applicable Rules and Orders.

In any case, such damages are likely to be based at least in part on obtaining an award from the Court of misuse of trademark and/or other

1 bad faith violations by Plaintiff, the amount and nature of Plaintiff's
2 unlawful activities in improperly restricting lawful competition, the extent
3 to which remedial communications and advertising may be necessary to
attempt to redress same, and other factors. Those issues and activities
appear to be continuing and therefore the subject of ongoing discovery.

4 Among other things, the damages are likely to include calculations
5 of Plaintiff's profits and/or Defendant's lost profits. In addition, Defendant
reserves the right to appropriately designate with appropriate terms of
6 confidentiality under the Confidentiality Order any and/or all such
disclosures. Notwithstanding the foregoing, for the convenience of the
7 parties and the Court, Defendant identifies at least the following
categories of damages it expects will be included in the foregoing
disclosures.
8

9	Category of Damages
10	Attorney fees and costs
11	Punitive damages
13	Lost sales
15	Interference with existing/prospective business relationships
16	Damages to business reputation
18	Employee time
19	Out-of-pocket expenses
21	Other

22
23 (iv) For inspection and copying as under Rule 34, any insurance
24 agreement under which an insurance business may be liable to satisfy all or part
25 of a possible judgment in the action or to indemnify or reimburse for payments
26 made to satisfy the judgment.

27 **Disclosure:** Pursuant to appropriate terms of confidentiality under
28 the Confidentiality Order, Keating will make available for inspection and
copying the following insurance policy:

The Hartford Business Liability Policy 72 SBA AB1425, with effective dates of 09/04/2010 to 09/04/2011 and 09/04/2011 to 09/04/2012.

Defendant expressly reserves the right to further supplement these Initial Disclosures under Federal Rule of Civil Procedure 26(e), without prejudice to its right to use such subsequently discovered information and documents at trial or at any proceeding in this action.

The undersigned counsel certifies under Federal Rule of Civil Procedure 26(g) that, after reasonable inquiry and to the best of his/her knowledge, the Disclosures contained above are accurate and complete as of the present time.

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 19, 2012 By: /s/ David G. Jankowski
Lynda J. Zadra-Symes
Jeffrey L. Van Hoosear
David G. Jankowski

Attorneys for Plaintiff,
Keating Dental Arts, Inc.

1 **PROOF OF SERVICE**

2 I am a citizen of the United States of America and I am employed in
3 Irvine, California. I am over the age of 18 and not a party to the within action.
4 My business address is 2040 Main Street, Fourteenth Floor, Irvine, California. I
5 am readily familiar with the firm's business practices for the collection and
6 processing of correspondence for mailing, and that mail so processed will be
7 deposited the same day during the ordinary course of business.

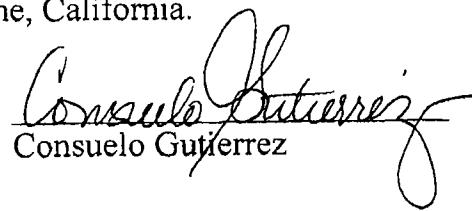
8 On October 19, 2012, I caused the within THIRD AMENDED
9 DISCLOSURES OF KEATING DENTAL ARTS, INC. PURSUANT TO
10 FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1) to be served on the parties
11 or their counsel shown below, by placing it in a sealed envelope addressed as
12 follows:

13 *Via Electronic and First Class Mail:*

14 Leonard Tachner, Esq.
15 LEONARD TACHNER, A Professional Law Corp.
16 17961 Sky Park Circle, Suite 38-E
17 Irvine, CA 92614-6364
18 Email: ltachner@aol.com

19 I declare that I am employed in the office of a member of the bar of this
20 Court at whose direction the service was made.

21 Executed on October 19, 2012 at Irvine, California.

22 
23 Consuelo Gutierrez

24
25
26
27
28

1 ***Glidewell Laboratories v. Keating Dental Arts, Inc.***
2 United States District Court, Central, Case No: SACV11-01309-DOC (ANx)

3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on November 19, 2012, I electronically filed the
5 document described as **APPENDIX OF EVIDENCE IN SUPPORT OF JAMES**
6 **R. GLIDEWELL DENTAL CERAMICS, INC.'S MOTIONS FOR**
7 **SUMMARY JUDGMENT** with the Clerk of the Court using the CM/ECF System
8 which will send notification of such filing to the following:

9 David G. Jankowski
10 Jeffrey L. Van Hoosear
11 Lynda J Zadra-Symes
12 Knobbe Martens Olson and Bear LLP
13 2040 Main Street, 14th Floor
14 Irvine, CA 92614

15 **Attorneys for Defendant Keating
16 Dental Arts, Inc.**
17 Tel: (949) 760-0404
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19 Jeffrey.vanhoosear@kmob.com
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21 Lynda.zadra-symes@kmob.com
22 litigation@kmob.com

23 Dated: November 19, 2012

24 SNELL & WILMER L.L.P.

25 By: s/Philip J. Graves

26 Philip J. Graves
27 Greer N. Shaw

28 Attorneys for Plaintiff
29 James R. Glidewell Dental Ceramics, Inc.
30 dba GLIDEWELL LABORATORIES

31 16139994.1